

REMARKS

Applicant requests reconsideration and withdrawal of the examiner's objection to the declaration.

The actual filing date of this application is October 1, 2003 and is not affected by the fact that applicant claims benefit of the provisional application that was filed October 8, 2002. The paragraph preceding the list of foreign applications states that the inventor has identified below (in the list of foreign applications) any foreign application filed less than twelve months prior to the United States application and of which the inventor claims foreign priority benefits. Since the Australian applications were filed more than twelve months prior to October 1, 2003 and a provisional application is not entitled to the right of priority of a foreign application, it follows that applicant does not claim foreign priority benefits of the Australian applications. Moreover, even if applicant were entitled to claim priority of either or both of the Australian applications, applicant is not required to claim priority. Further, although 37 CFR 1.63 requires that the declaration identify any foreign application for patent for which a claim of priority is made, it does not require that the declaration itself contain the claim of priority. Under MPEP 201.14(b), the claim to priority need be in no special form and may be made by a person authorized to sign correspondence on behalf of the applicant. By the same token, a person authorized to sign correspondence on behalf of the applicant may also state that applicant does not claim priority.

Applicant proposes that the claims should be amended in the manner indicated above.

The principal substantive amendments to claim 1 specify:

(a) that the cooperating fixtures on the spigot and socket comprise detents projecting outward from the spigot and ribs projecting outward from the socket and providing complementary recesses for receiving the detents of the spigot, and

(b) that the wall portion (which surrounds the loading aperture) is devoid of surfaces extending into the path of closing movement of the spigot.

Applicant proposes to insert the phrase "by movement of the spigot into the socket" in the second subparagraph of claim 1 in order to provide proper antecedent basis for the reference to "closing movement of the spigot." Applicant proposes to delete the subparagraph referring to spaced elements projecting outwardly from the blister package because these spaced elements are the ribs referred to as one of the components of the cooperating fixtures.

Amendment (a) adds features of claims 3 and 4 to claim 1. Accordingly, amendment (a) does not raise any new issues.

Amendment (b) relates to the feature discussed in the last paragraph on page 6 of the reply to the previous action and, as pointed out by the examiner in paragraph 13 of the current action, were not mentioned in the claims as previously presented. Since the examiner has considered applicant's arguments regarding this feature, amendment (b) also does not raise any new issues.

Similar comments to those made above apply to the amendments to claim 5.

In view of the foregoing, it is requested that the amendments be entered under 37 CFR 1.116.

The examiner has objected to the claims as containing inconsistent terminology. It is believed that the claim amendments now presented avoid these objections.

Claims 1-3, 5 and 6 stand rejected under 35 USC 102 over Morel et al.

Applicant submits that claim 1, as now amended, clearly distinguishes the invention over the disclosure of Morel et al. As stated in the reply to the previous action, the receptacle portion 15 of the container disclosed by Morel et al has walls 17, 18 provided with a continuous ledge 19. As noted in the reply to the previous action, a particle of grit settling on the ledge 19 would prevent the complete insertion of the cover 22

into the closed position in the mouth of the receptacle portion 15.

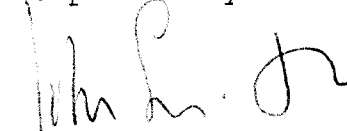
Claim 1, as now amended, states that the wall portion (which surrounds the loading aperture) is devoid of surfaces extending into the path of closing movement of the spigot. Support for this limitation is evident from FIGS. 3 and 6 of the drawings. Absence of surfaces extending into the path of closing movement of the spigot avoids the possibility of a particle of grit lodging on such surface and obstructing closing movement of the spigot.

The prior art cited by the examiner does not disclose or suggest that the container of Morel et al should be modified by omitting the ledge 19. The purpose of the ledge is not clearly explained, but it appears possible that the ledge is provided in order to enhance the stiffness of the container walls. In addition, the ledge would also stop the cover 22 being pushed too deeply into the receptacle 15.

Applicant therefore submits that claim 1 is patentable and it follows that the dependent claims 2 and 3 also are patentable.

Claim 5 is patentable for reasons similar to those presented in support of claim 1. It follows that the dependent claims 6-8 also are patentable.

Respectfully submitted,



John Smith-Hill
Reg. No. 27,730

SMITH-HILL & BEDELL, P.C.
16100 N.W. Cornell Road, Suite 220
Beaverton, Oregon 97006

Tel. (503) 574-3100
Fax (503) 574-3197
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